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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,371	04/02/2004	Matthias Loeffler	2003DE417	2598
25255	7590	09/25/2006	EXAMINER	
CLARIANT CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 4000 MONROE ROAD CHARLOTTE, NC 28205			BERNSHTEYN, MICHAEL	
			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/817,371	<b>Applicant(s)</b> LOEFFLER ET AL.	
	<b>Examiner</b> Michael Bernshteyn	<b>Art Unit</b> 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action follows a response filed on July 10, 2006. Applicants have amended claims 1-8 and 10-16, claim 17 has been added.
2. Claims 1-8 and 10-17 are pending.

### ***Claim Rejections - 35 USC § 102***

3. The test of this section of Title 35 U.S.C. not included in this action can be found in a prior Office Action.
4. Claims 1-8 and 10-16 are rejected under 35 U.S.C. 103(a) as being anticipated by Loffler et al. (U.S. Patent 6,437,068), for the rationale recited in paragraph 3 of Office Action dated on March 8, 2006, and comments below.
5. Claim 17 is rejected under 35 U.S.C. 102(b) as being unpatentable anticipated by Loffler et al. (U.S. Patent 6,437,068).

The disclosure of Loffler's reference resided in § 3 of Office Action dated on March 8, 2006 is incorporated herein by reference.

With regard to the limitations of claim 17, Loffler discloses that emulsions comprise an oil substance consisting essentially of emulsifier(s) and an oil phase. Suitable oil substances are vegetable, animal, mineral and synthetic oils, for example Guerbet alcohols having 6 to 18, preferably 8 to 10, carbon atoms, esters of linear C<sub>6</sub>-C<sub>13</sub>-fatty acids with linear C<sub>6</sub>-C<sub>20</sub>-fatty alcohols, esters of branched C<sub>6</sub>-C<sub>13</sub>-carboxylic acids with linear C<sub>6</sub>-C<sub>20</sub>-fatty alcohols, esters of linear C<sub>6</sub>-C<sub>18</sub>-fatty acids with branched alcohols, in particular 2-ethylhexanol, esters of linear and/or branched fatty acids with

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polyhydric alcohols (such as e.g. dimerdiol or trimertriol) and/or Guerbet alcohols, triglycerides based on C<sub>6</sub>-C<sub>10</sub>-fatty acids, vegetable oils, branched primary alcohols, substituted cyclohexanes, Guerbet carbonates, dialkyl ethers and/or aliphatic or aromatic hydrocarbons (page 4, [0035]).

Therefore, in view of substantially identical chemical ingredients between Loffler and instant claims, and it is used the same emulsifiers and solvents (tert-butanol), etc. as instantly claimed, and it is used for the same purposes for cosmetic, pharmaceutical and dermatological oil-in-water emulsion compositions, it is the examiner position that Loffler's polymer concentrate does not necessarily different from the claimed polymer concentrate.

Therefore, the limitations of instant claim 17 are met by Loffler.

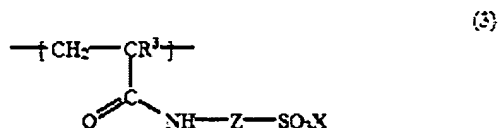
### ***Response to Arguments***

6. Applicants traverse the rejection under 35 U.S.C. § 102(b) of claims 1-8 and 10-16 as being anticipated by Loffler. Applicant's arguments have been fully considered but they are not persuasive.

7. Applicants contend that the prior art does not teach, disclose or suggest element (b) of claim 1 (page 9, 1<sup>st</sup> paragraph).

8. It is noted that with regard to the element (b), that Loffler clearly discloses the formula (3) which is identical to the formula (2) of instant claim 1 (abstract):

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where R, R<sup>1</sup>, R<sup>2</sup>, R<sup>3</sup>, Z and n are as defined in the description. These copolymers are crosslinked with compounds which contain at least two olefinic double bonds. These crosslinked copolymers are suitable as thickeners, in particular for cosmetic and pharmaceutical preparations.

Therefore, all the limitations for element (b) of instant claim 1 are expressly met by Loffler.

9. In the light of the discussion above, the rejection of record has not been withdrawn. The rejection remains in force.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Conclusion**

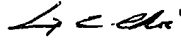
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bernshteyn whose telephone number is 571-272-2411. The examiner can normally be reached on M-F 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Bernshteyn  
Examiner  
Art Unit 1713

MB  
09/18/2006

  
LING-SUI CHOI  
PRIMARY EXAMINER